

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

<i>Application of</i>)	
DIRECTV ENTERPRISES, LLC)	File No. SAT-LOA-20090807-00085
For Authorization to Launch and Operate DIRECTV RB-2A, a Satellite in the 17/24 GHz Broadcasting Satellite Service at the 103° W.L. Location)	Call Sign: S2796

OPPOSITION TO PETITION FOR RECONSIDERATION

DIRECTV Enterprises, LLC (“DIRECTV”) hereby opposes the petition by Spectrum Five LLC (“Spectrum Five”)¹ for reconsideration of the International Bureau’s order granting authority to launch the DIRECTV RB-2A 17/24 GHz BSS payload.² Spectrum Five requests that the authorization be rescinded, or in the alternative, conditioned upon the outcome of another Spectrum Five petition for reconsideration pending in another proceeding. Given that DIRECTV RB-2A was successfully launched on December 28, 2009, it would appear that the request for rescission is now moot – even Spectrum Five cannot seriously expect the satellite to be “unlaunched.” Moreover, its alternative request for relief has no greater merit in the context of an authorization for launch only – especially where the launch has already occurred. Accordingly, the Bureau should expeditiously dismiss this petition.

¹ Petition for Reconsideration of Spectrum Five LLC, IBFS File No. SAT-LOA-20090807-00085 (filed Jan. 19, 2010) (“S5 Petition”).

² See Grant Stamp, IBFS File No. SAT-LOA-20090807-00085 (Dec. 15, 2009) (granting launch authority but deferring consideration of operational authority). The Commission subsequently granted operational authority as well. Grant Stamp, IBFS File No. SAT-LOA-20090807-00085 (Jan. 8, 2010) (“DRB2A Authorization”).

In its application, DIRECTV sought authority to launch and operate DIRECTV RB-2A. In response, Spectrum Five filed a petition requesting that any grant of the application be conditioned on the outcome of its petition for reconsideration of the prior authorization of another 17/24 GHz BSS satellite, DIRECTV RB-2, at the same orbital location.³ In light of an impending launch date, the Bureau granted DIRECTV authority to construct and launch this payload, but deferred consideration of authority for operation of the payload.

Spectrum Five asserts that even this partial grant was in error because it allowed DIRECTV to jump the first come, first served licensing queue, so that the later-filed DIRECTV RB-2A application was processed before the earlier-filed Spectrum Five application to serve the U.S. from the same slot.⁴ This argument totally ignores the fact that DIRECTV currently holds a Commission authorization to operate a 17/24 GHz BSS satellite at this orbital location. Neither Spectrum Five's fervent desires nor the pendency of its petition for reconsideration alter the situation.⁵ For purposes of this proceeding, the operative fact is that DIRECTV is the Commission licensee at this slot for 17/24 GHz BSS operations, and the launch of DIRECTV RB-2A was granted in that context – which is entirely consistent with the Commission's processing rules.

Moreover, Spectrum Five has not explained why the grant of launch authority without the condition it had requested would in any way prejudice the interests of *anyone*. Although the

³ See Petition of Spectrum Five LLC to Condition Any Approval of DIRECTV's Application on Spectrum Five's Related Pending Petition for Reconsideration, IBFS File No. SAT-LOA-20090807-00085 (Oct. 28, 2009).

⁴ S5 Petition at 1-2.

⁵ See, e.g., 47 C.F.R. § 1.102(b) (non-hearing action taken by delegated authority is effective upon release or public notice unless stay is granted). Indeed, as DIRECTV has pointed out, under the Commission's first come, first serve processing rules, Spectrum Five's application should already have been dismissed as a consequence of the grant of DIRECTV's authorization. See Petition to Deny, IBFS File No. SAT-LOI-20081119-00217 (Oct. 28, 2009).

DIRECTV RB-2A payload was authorized to launch, that has little consequence absent a further authorization to operate. If the payload were never given operational authority, and simply remained inert on the spacecraft, its mere existence in space would have no effect whatsoever on either the operating environment in space or the legal environment at the Commission. And given that the payload has already been launched, conditioning launch authority on the outcome of a pending proceeding is meaningless. If Spectrum Five's request for condition has any merit, it is only with respect to DIRECTV's application for operational authority for this payload,⁶ which will have some practical significance beyond merely changing the physical location of the payload from the Earth to space – and will undoubtedly be the subject of yet another petition for reconsideration by Spectrum Five.⁷ At this point, however, the only issue is launch authority, and with respect to that authorization Spectrum Five's arguments are clearly specious.

⁶ In this regard, DIRECTV would note that while the Bureau did not condition launch authority as requested by Spectrum Five, it did condition the operational authorization issued several weeks later such that its grant is without prejudice to the pending reconsideration and DIRECTV must terminate its operation of DIRECTV RB-2A when a regularly authorized 17/24 GHz BSS space station authorized to serve the U.S. commences operation at this slot unless such operations have been coordinated. *See* DRB2A Authorization, Condition 2. In other words, *if* Spectrum Five is successful in challenging the DIRECTV RB-2 authorization, and *if* Spectrum Five subsequently is authorized to access the U.S. market from 103° W.L., and *if* Spectrum Five actually manages to successfully launch a 17/24 GHz BSS satellite to that orbital location, DIRECTV would have to cease operations unless it had a coordination agreement with Spectrum Five. DIRECTV submits that this condition more than satisfies Spectrum Five's request.

⁷ *See* S5 Petition at 1 n.4 (reserving the right to file a separate petition with respect to the grant of operational authority).

DIRECTV is the Commission licensee for 17/24 GHz BSS operations at 103° W.L., and has already launched DIRECTV RB-2A. Spectrum Five's petition for reconsideration essentially ignores both of these facts. The Commission cannot similarly overlook these facts, and instead should expeditiously dismiss Spectrum Five's petition.

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/s/

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CERTIFICATE OF SERVICE

I hereby certify that, on this 26th day of January 2010, a copy of the foregoing

Response was served by hand delivery upon:

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